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MAY 31 1983
ALEXANDER L. STEVAS,
CLERK

82-1979

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

DANIEL LEVER WOODSIDE Pro se, PETITIONER

PO Box 237

MARLTON, NEW JERSEY 08053

609-983-3899

v.

Postmaster General of the
UNITED STATES OF AMERICA, RESPONDENT

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

QUESTIONS PRESENTED FOR REVIEW

1. Do the exemptions to the Federal Tort Claims Act and the soverign immunity upon which this judgement is based constitute an abridgement and denial of the Constitutional rights of the People to petition government for redress of grievences in trial and rights to private property and thus abrogate the Bill of Rights and other parts of the Constitution guaranteeing fair and just government?

2. Does the refusal of the post office to delivery mail to its lawful owner constitute larceny of the mails by the post office?

3. Does the deliberate and willful delivery by the post office of mail to someone not addressed to and carrying out criminal activities with that mail make the defendants accessories before and/or after the fact in those crimes

where a reasonable person exercising due care should have known better.

The petitioner, Daniel Lever Woodside, respectfully prays that a writ of certiorari issue to review the judgement of the United States Court of Appeals for the Third Circuit entered on March 28, 1983.

OPINIONS BELOW

The Court of Appeals entered its memorandum decision affirming the dismissal of Petitioner's complaint on March 11, 1983. A copy of the memorandum is attached as Appendix A.

The Court denied petitioner's petition for rehearing and suggestion for rehearing en banc on March 28, 1983. A copy of the order is attached as Appendix B.

JURISDICTION

On March 11, 1983, the Court of Appeals entered a judgement affirming the dismissal of the Petitioner's complaint against United States, et.al. The jurisdiction of this Court is invoked under Title 28, United States Code, Section 1254 (1).

UNITED STATES CONSTITUTIONAL PROVISIONS INVOLVED

Amendment 1

Congress shall make no law...abridging the freedom of speech or of the press or of the right of the people peaceably...to petition the government for a redress of grievances.

Amendment 4

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated and no warrants shall issue but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized.

Amendment 5

No person shall...be deprived of life, liberty or property without due process of law.

Amendment 7

...the right of trial by jury shall be preserved...

Amendment 9

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the People.

Amendment 10

The powers not delegated to the United States by the Constitution...are reserved ...to the People.

Amendment 14

...nor shall any state deny to any person ...equal protection of laws.

STATEMENT OF THE CASE

Mail addressed to Hobart Woodside was forwarded for five years to Harold Shore who stole that mail and forged Hobart's name to government checks and other items. Hobart Woodside died May 7, 1979. Letter from Nathanson dated May 12, 1979 acknowledges Daniel Woodside's claim to Hobart's mail as his personal and private property and application for Surrogate's Court order that

was issued July 11, 1979. Despite postal regulations requiring mail to be forwarded for one year, Surrogate's court order and repeated communications from Daniel Woodside, Crandly ordered Nathanson to mark Hobart's mail as deceased and returned to sender. Crandly seized some mail back from Harold Shore after delivery.

Complaint states contempt of Surrogates Court order, violations of postal regulations, deliberate theft of mail, libel and slander, violations of due process, violations of Constitutional rights, accessory to forgery, search and seizure of private property without due process, disposition of private property without due process.

REASON FOR GRANTING THE WRIT

Petitioner has been denied Constitutionally guaranteed rights of due process to petition government for redress of grievences, due process of jury trial, rights to private property, rights to privacy, rights against

unwarranted search and seizure, freedom of speech, to be secure in own home with private property, equal protection of the law and other rights reserved to the People.

Any and all conditions and limitations upon the right to sue government are unconstitutional and a clear cut violation of first, fourth, fifth, seventh, ninth, tenth and fourteenth amendments. Clearly, the intent of the Constitution is secure the blessings of individual freedoms and to severely curtail the oppressive powers of a dictatorial government dedicated to special interest groups at the expense of others. The People have Constitutional rights to have good government free of oppressive torts against the People. Unconstitutional Congressional acts are common. Supreme Court ruled most of the New Deal Acts of the 1930's unconstitutional. Supreme Court in Lamont v. Postmaster General, 1965, ruled unconstitutional a 1962 Congressional Act directing Postmaster General to detain

unsealed foreign mail of a Communist propaganda nature - a typical example of government seizure of private property without search warrants that invaded Constitutionally guaranteed privacy. As the supreme law of the land, the Constitution is jurisdictional in all courts of the land, Congress and the Executive despite special interests pressures to the contrary.

Defendant's arguments that the Federal Tort Claims Act (hereafter referred to as FTCA) is the plaintiff's sole jurisdictional basis is faulty because the plaintiff mentions the FTCA in his complaint only once and that very immaterially. It was the defendents themselves that ordered the plaintiff to seek damages under FTCA when this case was in Federal District Court previously. Plaintiff is largely seeking damages under Constitutional rights to petition government for Constitutional rights guaranteeing:
1-His person, house, property and effects against unreasonable searches and seizures

without warrant; 2-no person shall be deprived of life, liberty or private property without due process of law nor shall private property be taken without just compensation; 3-the right of trial by jury shall be preserved; 4-equal protection of the laws. The FTCA clearly contradicts and violates the above Constitutional rights and is therefore unconstitutional and illegal. Plaintiff clearly states many Constitutional rights as jurisdictional basis. Violations of Constitutional rights is high crimes and misdemeanors against the People. Defendant's paraphrasing of complaint is faulty. Complaint paragraphs 2-5 clearly state that after the death of Hobart Woodside, all mail addressed to Hobart became the property of Daniel Woodside - that the post office did seize this private property after delivery and return this and other mail to senders - allowing Harold Short to keep any and all mail that he so desired. Defendents claim of Congressional action is faulty, vague,

indefinite and does not specify anything. Congress clearly has no Constitutional or other rights to violate the Constitutional rights of the People by such things as FTCA placing any conditions whatsoever upon the rights of the people to sue government for redress of grievences such as FTCA 28 USC 2680b and h. Among others,this violates first amendment rights to petition government for redress of grievences without any conditions or limitations stated in the Constitution.

It is highly discriminatory and unconstitutional to give excessive and extreme Constitutional protection to pornography, criminal rights and many other special interest groups at the expense of lawful citizens being discriminated against in Federal Rules of Civil Procedure and other laws that violate Constitutional protections opening in defiance of anyone to do anything about it.

CONCLUSION

For the foregoing reasons, petitioner Daniel Lever Woodside, respectfully requests a writ of certiorari issue to review the judgement of the United States Court of Appeals for the Third Circuit.

Dated 10 April 1983

Respectfully submitted,

Daniel L. Woodside

Daniel Lever Woodside pro se

PO Box 237

Marlton, New Jersey 08053

609-983-3899

Petitioner

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

DANIEL LEVER WOODSIDE, PETITIONER

V.

UNITED STATES OF AMERICA, RESPONDENT

PROOF OF SERVICE

STATE OF NEW JERSEY

COUNTY OF BURLINGTON

DANIEL LEVER WOODSIDE deposes and says that pursuant to Rule 28.4 of this Court, he served the within NOTION FOR LEAVE TO PROCEED FORMA PAUPERIS and PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE THIRD CIRCUIT on counsel for the Respondent by enclosing a copy thereof in

an envelope certified mail, return receipt,

addressed to:

Jerome B. Simandle, Esq.
Assistant US Attorney
402 East State Street, Room 265
Trenton, New Jersey 08608

Solicitor General of U.S.
Department of Justice
Washington, D.C. 20530

and depositing same in the United States

mails at Marlton, New Jersey 08053 on

April 10, 1983.

April 6, 1983

Daniel Lever Woodside

Daniel Lever Woodside
Affiant

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 82-5498

DANIEL L. WOODSIDE, APPELLANT

VS.

POSTMASTER GENERAL

(D.C. Civil No 82-759)

ON APPEAL FROM THE UNITED STATES DISTRICT

FOR THE ---- DISTRICT OF NEW JERSEY

CAMDEN

Present: Seitz, Chief Judge, HIGGINBOTHAM and ROSENN, Circuit Judges

JUDGEMENT

This cause came on to be heard on the record from the United States District Court for the ---- District of New Jersey - Camden and was submitted under Third Circuit Rule 12(6), 3/11/83.

On consideration whereof, it is now here ordered and adjudged by this Court that the judgement of the said District Court

entered July 21, 1982, be, and the same is hereby affirmed. No costs.

ATTEST:

Clerk

March 11, 1983

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

DANIEL L. WOODSIDE, APPELLANT

VS.

UNITED STATES, ET. AL.

APPENDIX A

PER CURIAM: #82-5498, March 11, 1983, filed Chief Judge Seitz, Third District

The Court having reviewed the dismissal of the complaint by the district court on the ground that it was not timely filed and having considered that copies of a complaint were admittedly received by the clerk before the expiration of the limitation period, albeit, they were returned for failure to send an original and the court having concluded that the filing should have been treated as timely (compare, Gould v. Members, 555 F. 2d 340 (3rd Cir. 1977),

The court having therefore considered the government's alternative contention that the judgment of the district court should

be affirmed because the claims asserted in the action are barred by the exemptions set forth in the Federal Tort Claims Act, 28 U.S.C. 2680 (b) and (h) and having determined that the exemptions are controlling, it is ORDERED AND ADJUDGED that the judgement of the district court be and is hereby affirmed.

No costs are taxed.

TO THE CLERK OF THE COURT:

Please file the foregoing opinion.

Judge

To be attached to petition for writ of certiorari mailed to you yesterday.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 82-5498

DANIEL L. WOODSIDE, APPELLANT

VS.

POSTMASTER GENERAL

ON APPEAL FROM THE JUDGEMENT OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Civil No. 82-759

SUR PETITION FOR REHEARING

PRESENT: SEITZ, Chief Judge, ADAMS, GIBBONS, HUNTER, WEIS, HIGGINBOTHAM, SLOVITER, BECKER, ROSENN, District Judges.

The petition for rehearing filed by Appellant in the above entitled case having been submitted to the judges who participated in the decision of this court and to all the other available circuit judges of the circuit in regular active service and no judge who concurred in the decision having asked for

rehearing by the court in banc, the petition for rehearing is denied.

By the Court,

Collins J. Seitz, Chief Judge

Dated: March 28, 1983

THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DAVID WOODSIDE, PLAINTIFF,	)	
	)	
V.	)	
	)	
POSTMASTER GENERAL OF THE	)	
	)	
UNITED STATES, DEFENDANT	)	DOCKET NO.
	)	82-759
	)	
	)	
	)	
	)	
	)	
	)	
	)	

DECISION ON MOTION

BEFORE: THE HONORABLE STANLEY S. BROTMAN, JUDGE, UNITED STATES DISTRICT COURT, DISTRICT OF NEW JERSEY, CAMDEN, NEW JERSEY.

DATE: JULY 14, 1982.
TIME: 9:30 A.M.
RECEIVED: 12/18/82, SATURDAY

(THE FOLLOWING TAKES PLACE IN OPEN COURT.)

THE COURT: PLAINTIFF, PRO SE, BRINGS THIS ACTION UNDER THE FEDERAL TORT CLAIMS ACT, 28 UNITED STATES CODE SECTIONS 1346B, 2675, ALLEGING THAT "CRANDLEY" (WHO HAS BEEN IDENTIFIED BY DEFENDANT AS A POSTAL INSPECTOR), ILLEGALLY DISPOSED OF MAIL ADDRESSED TO "HOBERT WOODSIDE", PLAINTIFF'S DECEASED BROTHER. THE MAIL WAS ALLEGEDLY RETURNED TO SENDER. PLAINTIFF ALSO ALLEGES THAT THE FAILURE TO FORWARD THE MAIL PROPERLY CONSTITUTED LIBEL AND SLANDER OF PLAINTIFF AS "NOT BEING A RESPONSIBLE PERSON", PARAGRAPH 9. HE FURTHER ALLEGES THAT DEFENDANT "VIOLATE(D) ALL OF MY CONSTITUTIONAL RIGHTS.." PARAGRAPH 10. OTHER NUMEROUS ALLEGATIONS ARE MENTIONED IN THE COMPLAINT INCLUDING USURP(ING) THE POWERS OF SURROGATE'S COURT:, PARAGRAPH 11; BEING AN ACCESSORY OF THE FACT IN HAROLD SHORE'S FORGERY OF HOBART'S CHECKS, PARAGRAPH 12; AND CAUSING PLAINTIFF AND HIS FAMILY "TO SUFFER EXCESSIVE MENTAL ANGUISH AND MENTAL CRUELTY", PARAGRAPH 13. HE SEEKS DAMAGES IN THE AMOUNT OF ONE MILLION DOLLARS.

PLAINTIFF FILED AN ADMINISTRATIVE TORT CLAIM ON APRIL 18, 1981, SEEKING DAMAGES FROM THE POSTAL SERVICE FOR THEFT OF MAIL. (DEFENDANT'S EXHIBIT A). THE CLAIM WAS DENIED BY LETTER DATED MAY 28, 1981, BECAUSE A CLAIM FOR LOSS OR MISCARRIAGE OF MAIL IS NOT COGNIZABLE UNDER THE FEDERAL TORT CLAIMS ACT (DEFENDANT'S EXHIBIT B).

DEFENDANT MOVES TO DISMISS THE COMPLAINT. DEFENDANT ASSERTS THREE GROUNDS FOR DISMISSAL. FIRST, THE ACTION IS BARRED BY THE STATUTE OF LIMITATIONS, 28 UNITED STATES CODE, SECTION 2401 (B), BECAUSE IT WAS NOT FILED WITHIN SIX MONTHS OF THE DATE OF THE DENIAL OF HIS ADMINISTRATIVE CLAIM. SECOND, THE ACTION IS BARRED BY 28 UNITED STATES CODE SECTION 2680 (B) WHICH EXEMPTS FROM THE ACT "ANY CLAIM ARISING OUT OF THE LOSS, MISCARRIAGE OR NEGLIGENT TRANSMISSION BY LETTERS OR POSTAL MATTER" AND BY 28 UNITED STATES CODE 2680 (H) WHICH EXEMPTS "ANY CLAIM ARISING OUT OF ... LIBEL, SLANDER, MISREPRESENTATION, DECEIT ..." THIRD, THE

ACTION IS BARRED BECAUSE THE DEFENDANT CANNOT BE HELD VICARIOUSLY LIABLE FOR THE ALLEGED TORTS OF SUBORDINATE EMPLOYEES.

IT IS CLEAR THAT PLAINTIFF FILED THE COMPLAINT WELL OVER SIX MONTHS AFTER HIS ADMINISTRATIVE CLAIM WAS DENIED AND THAT THE ACTION IS THEREFORE BEYOND THE STATUTE OF LIMITATIONS. 28 UNITED STATES CODE, SECTION 4201 (B). IN RESPONSE TO THIS POINT, PLAINTIFF STATES THAT HE "TOOK THIS COMPLAINT TO THE CAMDEN OFFICE IN NOVEMBER WITHIN THE SIX MONTHS TIME PERIOD FOR FILING. COMPLAINT WAS INITIALLY RETURNED FOR THE REASON THAT THE DEFENDANT DID NOT MARK ON THE ORIGINAL THE WORD "ORIGINAL". FOUR MONTHS OF ARGUMENTS OVER TECHNICALITIES THEN FOLLOWED BEFORE THE COMPLAINT WAS ACCEPTED FOR FILING. ARGUMENTS OVER LENGTH OF PAPER, RETURNING THE SIXTY DOLLAR CHECK SEVERAL TIMES, ETC. - EACH WITH LONG DELAYS IN BETWEEN BECAUSE OF THE PLAINTIFF WORKING AND NOT HAVING READY ACCESS TO THE CLERK'S OFFICE. BECAUSE THE CLERK'S OFFICE IS PART OF THE UNITED STATES

AND THUS PARTY TO THE DEFENSE - THIS IS A CLEAR CUT EXAMPLE OF OBSTRUCTION OF JUSTICE. THUS, THE PLAINTIFF PETITIONS THE COURT TO TAKE THE TIME OF FIRST ATTEMPTS TO FILE AS THE DATE OF FILING. "PARAGRAPH 2 OF PLAINTIFF'S PLEADING CAPTIONED" PETITION FOR CHANGE OF VENUE TO CAMDEN ORAL ARGUMENTS AND JURY TRIAL ORDER FOR SUMMARY JUDGEMENT", FILED JUNE 30, 1982. PLAINTIFF ALSO STATES THAT "ANY AND ALL STATUTES OF LIMITATION ARE UNCONSTITUTIONAL AND OBSTRUCTION OF JUSTICE." (SIC) D. AT PARAGRAPH 5.

NOTHING IN PLAINTIFF'S RESPONSE CONSTITUTES AN EXCUSE FOR THE FAILURE TO FILE WITHIN THE LIMITATIONS PERIOD. THE ACTION WILL BE DISMISSED ON THE GROUND THAT IT IS BARRED BY THE STATUTE OF LIMITATIONS, 28 UNITED STATES CODE SECTION 2401 (B), WHICH DIVESTS THIS COURT OF JURISDICTION OVER THE CONTROVERSY. FOR THIS REASON, THE DEFENDANT'S MOTION TO DISMISS THE COMPLAINT IS GRANTED.

(AT WHICH TIME, THE MATTER WAS CONCLUDED.)

C E R T I F I C A T I O N

I, STEPHEN J. DANER, OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, DO HEREBY CERTIFY THAT THE FOREGOING MATTER IS A TRUE AND ACCURATE TRANSCRIPT OF MY STENOGRAPHIC NOTES TAKEN AT THE TIME AND PLACE HEREIN-BEFORE SET FORTH.

_____

STEPHEN J. DANER, CP, RPR
OFFICIAL U.S. REPORTER

DATE: 12/12/82